

REMARKS/ARGUMENTS

Claims 1-5, 8-14, 16-24, 34-35 and 38-40 are active. Claims 15, 30-33, 36 and 37 have been withdrawn from consideration. Dependent claims 6-7, 15, 25-29, and 32-33 have been cancelled as redundant or because they are non-elected claims. Claim 13 has been revised to replace a period. Claims 13 and 21 employ the words “non-native” and “non-endogenous” finding support on page 6 around page 6, line 18. Dependent claims 14, 16 and 18 have been revised to more clearly relate back to their independent claims. Therefore, the Applicants do not believe that any new matter appears in this amendment. Its favorable consideration and allowance of this case are respectfully requested.

Allowable Claims

The Applicants thank Examiner Collins for pointing out allowable subject matter in Claims 1-5, 8-10 and 38-40. All of the claims now depend from one of these allowable claims.

Restriction/Election

The Applicants previously elected with traverse Group I, claims 1-14, 16-24, 34, and 35, drawn to a method of increasing by recombinant means expression of *cd27a* in a plant or plant part, as well as plants, plant parts and genetic constructs. The requirement has been made FINAL. The Applicants request rejoinder of any non-elected claims that depend from or otherwise include all the limitations of an allowed elected claim, MPEP 821.04.

Objections--Claims

Claims 14, 16 and 18 were objected to as being in improper dependent form as not further limiting the subject matter in the independent claims from which these claims depend. These objections are moot in view of the revisions above.

Rejection—35 U.S.C. §112, first paragraph

Claims 6, 7, 14, 16, 21, 23 and 24 were rejected under 35 U.S.C. 112, first paragraph, as lacking adequate written description. This rejection is moot in view of the cancellation of claims 6 and 7 and in view of the amendments to the other claims.

Rejection—35 U.S.C. §112, first paragraph

Claims 14, 16, 21, 23 and 24 were rejected under 35 U.S.C. 112, first paragraph, as lacking adequate enablement. This rejection is moot in view of the amendments above.

Rejections—35 U.S.C. §112, second paragraph

Claim 11-14 and 16-18 (and claims 19, 20, 34 and 35 depending from these claims) were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. These rejections are moot in view of the amendments above.

Rejection—35 U.S.C. §102(b)

Claims 21-24<sup>1</sup> were rejected under 35 U.S.C. 102(b) as being anticipated by Hemerly, et al., WO 01/02430. This rejection is moot in view of the amendment of these claims to refer to constructs containing non-endogenous or non-native control sequences or, for claims

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<sup>1</sup> Claims 20 and 35 are also mentioned on page 10 in the body of rejection.

20 and 35, to transgenic plants having the phenotypes required by claim 1. Therefore, this rejection cannot be sustained.

Conclusion

In view of the amendments and remarks above, the Applicants respectfully submit that this application is now in condition for allowance. An early notice to that effect is earnestly solicited.

Respectfully submitted,

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